

EXHIBIT 30

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE DISTRICT OF PUERTO RICO
4 Case No. 17-BK-3283-LTS

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4 In re:
5 THE FINANCIAL OVERSIGHT AND MANAGEMENT
6 BOARD FOR PUERTO RICO,

7 as representative of

8 THE COMMONWEALTH OF PUERTO RICO, et al.,

Debtors.

9 -----x

Case No. 17-BK-4780-LTS

10 -----x

In re:

11 THE FINANCIAL OVERSIGHT AND MANAGEMENT
12 BOARD FOR PUERTO RICO,
13 as representative of
14 THE PUERTO RICO ELECTRIC POWER AUTHORITY,
15 Debtor.

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16 May 25, 2023

9:20 a.m.

17
18 VIDEOTAPED DEPOSITION of ELLEN SMITH,
19 held at the offices of Kramer Levin
20 Naftalis & Frankel LLP, located at 1177
21 Avenue of the Americas, New York, New York
22 10036, before Anthony Giarro, a Registered
23 Professional Reporter, a Certified Realtime
24 Reporter and a Notary Public of the State
25 of New York.

1 ELLEN SMITH

2 form.

3 A Can you explain more what
4 you mean by sufficient?

5 Q Do you think that LUMA
6 should be proposing a higher number for
7 its budgeted expense for transmission
8 towers?

9 MS. PAVEL: Objection to
10 form.

11 A I think their budget for --
12 this budget that just recently has been
13 presented, that will be approved by PREB,
14 I think it has in it, the work that they
15 feel they can accomplish. Whether or not
16 the asset conditions require something
17 different over time, time will tell
18 because eventually -- essentially, the
19 entire system will have to be rebuilt.

20 Q When you say that LUMA's
21 budget for the transmission towers
22 reflects what they think they can
23 accomplish, what are the constraints on
24 what they think they can accomplish?

25 A Constraints include

1 ELLEN SMITH

2 A Yes.

3 Q Do you have a view on
4 whether the amount budgeted to be spent
5 on repairs to the transmission
6 substations is sufficient?

7 MS. PAVEL: Objection to
8 form.

9 MR. MERVIS: Objection to
10 form.

11 A So LUMA goes through a very
12 detailed prioritization process where
13 they assess the criticality and the
14 likelihood of something bad happening.
15 And that's what their basis of their
16 programs and projects are. So based on
17 that assessment, I believe that what they
18 have in their budget is what they feel is
19 most urgently needed.

20 Q Do you have any basis to
21 disagree with LUMA's assessment?

22 A I don't.

23 Q Are there any constraints on
24 LUMA's ability to -- I'll ask it another
25 way.

1 ELLEN SMITH

2 Q Has LUMA budgeted for the
3 repair and upgrade of the distribution
4 poles?

5 A Yes.

6 Q And do you have any view
7 about whether it has sufficient --
8 budgeted sufficient funds for the
9 distribution -- the repair of the
10 distribution poles?

11 MR. MERVIS: Objection to
12 form.

13 MS. PAVEL: Objection to the
14 form.

15 A I don't have any reason to
16 believe they haven't, that it doesn't
17 meet what they're intending to do. But,
18 again, it's a many years program to do
19 this work.

20 Q And why does it take many
21 years to repair the distribution poles?

22 A Primarily, because there's
23 so many of them. So the prioritization
24 process has to be very disciplined. And
25 work that requires outages is oftentimes

1 ELLEN SMITH

2 Q Let me simplify it.

3 Have you ever been asked to
4 forecast the capital needs for an
5 electric utility?

6 A Yes.

7 Q And what time span have you
8 made these forecasts? Five years out,
9 ten years out, 20 years out?

10 MR. MERVIS: Objection to
11 the form.

12 A Generally, my experience in
13 particular was with respect to National
14 Grid in their Upstate, New York utility
15 named Niagara Mohawk. In those
16 processes, we would look at five years.

17 Q Why would you look at five
18 years?

19 A Generally, the rate cases at
20 the time were not done frequently. Now,
21 today, they're done every three or four
22 years. So you could keep up to date with
23 them. But five years essentially gets
24 you to a rate case-to-rate case view on a
25 rolling basis.

1 ELLEN SMITH

2 Q Can you explain to me how
3 you would create these forecasts of
4 capital needs for five years out?

5 MR. MERVIS: Objection to
6 the form.

7 A Sure. So you begin by doing
8 a very systemic inspection of your assets
9 over a certain period of time. Those
10 inspections result in a view of the
11 health or condition of those assets.
12 Then there is a prioritization process
13 that is gone through to identify what
14 must be done first, what can be pushed
15 out to later years. And then there's
16 a -- incorporated in this is
17 understanding of how the system is
18 performing in terms of outages and any
19 other issues.

20 And then all that gets put
21 together in terms of coming up with a
22 capital plan by asset category. So by
23 transmission, by transmission
24 substations, distribution, distribution
25 substations and other customer-related

1 ELLEN SMITH

2 work. So in my case, I had some of our
3 capital needed to be spent because of
4 customer-driven work. So we have new
5 customers. You have to put them in
6 service, for example.

7 Q Is what you just described
8 consistent with how in your experience,
9 electric utilities forecast their capital
10 needs?

11 MR. MERVIS: Objection to
12 the form.

13 A Yes.

14 Q Have you ever performed
15 forecast of capital needs for an electric
16 utility going beyond five years?

17 MR. MERVIS: Objection to
18 the form.

19 A No.

20 Q Is there a reason you
21 haven't done that?

22 MR. MERVIS: Objection to
23 the form.

24 A No.

25 Q Is it possible to forecast

1 ELLEN SMITH

2 capital needs for an electric utility for
3 a longer period than five years?

4 MS. PAVEL: Objection to
5 form.

6 A It's possible. But
7 generally, the view of the accuracy of
8 such forecast is, you know, not great.

9 Q Why do you mean it's not
10 great?

11 A Because in 10 or 15 or 20
12 years, you're not really sure of what the
13 system -- how it's going to be operating.
14 You can forecast some things. You can
15 look at your categories of equipment,
16 like transformers, and you can look at
17 some breakers.

18 If you have a class of
19 breakers that's already 30 years old or
20 older, then you could say within this
21 five-year period, I have to replace a
22 certain number of them. As those get
23 replaced, you could say their meantime to
24 failure or average life is 25 years. And
25 you could say 25 more years. Then I will

1 ELLEN SMITH

2 ten-year forecast that ties essentially
3 to FEMA work over this period of time.
4 But that is essentially entire rebuild
5 work. So when you say CAPEX forecast
6 over time, maybe you could confirm. Are
7 you talking about a system that's
8 operating well today?

9 Q I mean, are you aware of any
10 methodology in your field for forecasting
11 the capital needs of an electric company
12 based on the network length?

13 MR. MERVIS: Objection.

14 MS. PAVEL: Objection to
15 form. She's asked for a
16 clarification.

17 MR. MAYRELL: And I'm trying
18 to give her one.

19 A What do you mean by network
20 length?

21 Q The length of the
22 transmission and distribution lines.

23 A Like the distance?

24 Q Yes.

25 A Oh.

1 ELLEN SMITH

2 No, not specifically.

3 Distance is not generally -- I mean it's
4 a component, circuit miles. But it's one
5 piece of the equation.

6 Q What would be the other
7 pieces of the equation?

8 A The number of substations,
9 the number of transformers, the number of
10 breakers, the number of relays, all other
11 pieces.

12 Q Would the number of
13 electricity customers be a factor in
14 performing a longer-term forecast of
15 capital needs?

16 MS. PAVEL: Objection to
17 form.

18 A If there was known load
19 increases, customer increases, then they
20 would be incorporated.

21 Q Would a forecast of capital
22 needs for an electric utility need to
23 account for, for example, the geographic
24 constraints where a utility is operating?

25 MR. MERVIS: Objection to

1 ELLEN SMITH

2 form.

3 MS. PAVEL: Objection to
4 form.

5 A I would say yes. But I
6 would call it environmental constraints.
7 So, for example, what you build in
8 Upstate, New York or on the west coast,
9 which has a lot of fire hazards, will be
10 very different than what you build in
11 Puerto Rico.

12 Q Why is that?

13 A Because the environments are
14 different. So Puerto Rico's a tropical
15 environment. But it has a rain forest.
16 It also has an earthquake zone. So you
17 have to design for those factors.

18 In California, you have wild
19 fire risk. And you have a large number
20 of high fire risk districts. And those
21 areas have to have certain precautions
22 taken, even different than the rest of
23 the non-wildfire risk areas. So
24 utilities work very hard to make sure
25 that the work they're defining is

1 ELLEN SMITH

2 specific to the environment that the
3 work's being done in.

4 Q So are there differences in
5 the environmental constraints that apply
6 to Puerto Rico versus to the southeastern
7 United States?

8 MS. PAVEL: Objection to
9 form.

10 A Yes.

11 Q Could you explain what those
12 are?

13 MR. MERVIS: Objection to
14 form.

15 A Wild parts of the southeast
16 United States are tropical like
17 environments. They're not as tropical as
18 Puerto Rico; also, Puerto Rico has
19 hurricane risks that are quite high. And
20 they have earthquake risks that are quite
21 high that are somewhat different than the
22 southeast United States.

23 Q If I use the phrase
24 concentration of electricity customers,
25 do you understand what I mean by that?

1 ELLEN SMITH

2 A Yes.

3 Q So would the concentration
4 of electricity customers affect a
5 forecast of capital needs?

6 MR. MERVIS: Objection to
7 form.

8 MS. PAVEL: Objection to
9 form.

10 A Not independently by itself.
11 I mean there's an obligation by utilities
12 to serve everybody. So you have to serve
13 everybody.

14 Q So, for example, if
15 utilities customers are very spread out,
16 like in a rural area, would its capital
17 needs be different than those of a
18 utility that mainly served an urban area?

19 MR. MERVIS: Objection to
20 the form.

21 MS. PAVEL: Objection to
22 form.

23 A I will tell you, for
24 example, New York City has a very
25 different capital plan than Niagara

1 ELLEN SMITH

2 Mohawk does in Upstate, New York. Yes.

3 They're very different. The capital
4 plans are very specific to the utilities
5 customer base and their location.

6 One more point to factor for
7 Puerto Rico I didn't mention, but I
8 should, is that it's a salt air
9 environment. Parts of the southeast of
10 the United States are not. Along the
11 coasts, they are, but not inland. So
12 that salt air environment also has to be
13 accounted for.

14 Q Have you ever seen in your
15 experience, a forecast of the capital
16 needs of a utility that is performed by
17 comparing one utility's -- let me think
18 of a better way to put this question.

19 Can you infer what the
20 capital expenditures of one utility will
21 be, simply by looking at another utility?

22 MR. MERVIS: Objection to
23 form.

24 MS. PAVEL: Objection to
25 form.

1 ELLEN SMITH

2 A Yes and no.

3 Q Can you explain?

4 A So if Utility A and Utility
5 B have similar conditions and locations
6 and customer types, then if you're a very
7 large investor own utility and you have a
8 certain percentage of urban, certain
9 percentage of rural customers, then you
10 might be able to compare them. In other
11 cases, you can't.

12 In Puerto Rico's case,
13 you're on an island. You're not
14 interconnected to anybody. So it makes
15 the situation very different, as well as
16 the physical environment, environmental
17 issues.

18 MR. MERVIS: Ralph, if we
19 could take a break in a little bit.

20 MR. MAYRELL: Yes. I was
21 figuring on going until noon. So we
22 could take a break now.

23 THE VIDEOGRAPHER: The time
24 is 11:55. We're going off the
25 record.